

# **RHODE ISLAND INDUSTRIAL FACILITIES CORPORATION**

**October 29, 2009**

## **PUBLIC SESSION**

A meeting of the Board of Directors of the Rhode Island Industrial Facilities Corporation ("RIIFC") was held in public session at the offices of the Rhode Island Economic Development Corporation, 315 Iron Horse Way, Suite 101, Providence, Rhode Island on Thursday, October 29, 2009 beginning at approximately 9:00 a.m. pursuant to a Notice and Agenda duly posted and sent to all members.

Members present and attending the meeting were: Mr. Michael Kehew, Mr. David Piacitelli and Mr. William Parsons. Mr. John Ward and Mr. Ronald Renaud were not present. Also present and attending were Earl F. Queenan, Jr., Treasurer of RIIFC, Mr. Sean Esten, Secretary of RIIFC, Thomas V. Moses, Esquire, Counsel to RIIFC, Carol J. Anguilla, Moses & Afonso, Ltd. and Ms. Susan Morgan, Director of Accounting at the Rhode Island Economic Development Corporation. Mr. David Piacitelli, Chairman of the Board called the meeting to order at 9:00 a.m.

### **ACCEPTANCE OF THE MINUTES OF SEPTEMBER 24, 2009**

The first item to come before the Board was consideration of adoption of the Minutes of the Meeting of the Board of Directors held on September 24, 2009. A motion was made by Mr. Parsons to adopt the Minutes of September 24, 2009 as presented, which motion was seconded by Mr. Kehew. Following the motion and second, the motion to accept the Minutes was adopted as follows: Mr. Piacitelli - yes, Mr. Parsons – yes and Mr. Kehew - yes.

Following the vote to accept the September 24, 2009 minutes, Mr. Kehew requested that the RIIFC staff provide an update regarding matters relating to Goetz Custom Technologies, LLC (“Goetz”). Mr. Kehew explained that he was aware that Goetz was once again experiencing certain financial difficulties. Mr. Queenan explained that due to certain financial difficulties, the bondholders and Trustee of the \$4,325,000 Industrial Development Revenue Bonds (Eric Goetz Custom Sailboats, Inc. Project – 2006 Series) (the “Goetz Bonds”) have redeemed the Letter of Credit in connection with the Goetz Bonds. It is believed that Mr. Goetz is continuing to explore options for financing through private investors.

ADOPTION OF A RESOLUTION AUTHORIZING RIIFC TO ENTER INTO AN  
INTERCREDITOR AGREEMENT WITH BANK OF AMERICA IN CONNECTION  
WITH RIIFC’S \$5,000,000 INDUSTRIAL DEVELOPMENT REVENUE BONDS  
(NFA CORP. PROJECT - 1994 SERIES)

Mr. Moses reviewed the details of a resolution sent to the Board in its package concerning the execution by RIIFC of an Intercreditor Agreement with Bank of America in connection with RIIFC’s \$5,000,000 Industrial Development Revenue Bonds (NFA Corp. Project - 1994 Series) (the “NFA Bonds”). In reviewing the resolution in detail, it was stated that at the time the NFA Bonds were issued, Bank of America, as successor in interest to the First National Bank of Boston, issued its Letter of Credit in support of the NFA Bonds. Also, at such time, RIIFC, through certain security and pledge agreements executed with NFA Corp., secured the repayment of the NFA Bonds. Bank of America now desires to extend additional credit to NFA Corp. and thereby intends to obtain a Leasehold Mortgage and a blanket security interest in certain of NFA Corp.’s personal and real property which is also the subject of the collateral for the NFA Bonds. The

Board is being asked to approve a resolution to allow RIIFC to execute an Intercreditor Agreement with Bank of America which will make clear that to the extent any of the new loans between NFA Corp. and Bank of America are secured by real or personal property of NFA Corp. which also secures the NFA Bonds, RIIFC's security interest in such collateral shall have first priority over any security interest of Bank of America with respect to such new loans. Following discussion and upon motion duly made by Mr. Kehew and seconded by Mr. Parsons, the resolution, a copy of which is attached hereto as Exhibit A, was adopted as follows: Mr. Piacitelli – yes, Mr. Parsons – yes and Mr. Kehew – yes.

APPROVE AND ACCEPT THE PROPOSED BUDGET FOR  
FISCAL YEAR ENDING JUNE 30, 2011

Mr. Queenan briefly presented the proposed budget for fiscal year ending June 30, 2011 to the Board and explained that, once approved, the budget would be submitted to the State of Rhode Island Budget Office. There being no discussion, Mr. Piacitelli called for a motion to approve the proposed budget for fiscal year ending June 30, 2011. Upon motion duly made by Mr. Kehew and seconded by Mr. Parsons, the proposed budget was approved and accepted as follows: Mr. Piacitelli – yes, Mr. Parsons – yes and Mr. Kehew – yes.

REVIEW OF INTERNALLY PREPARED FINANCIAL STATEMENTS  
FOR THE PERIOD ENDED SEPTEMBER 30, 2009

Mr. Queenan presented and reviewed with the Board the draft financial statements for the period ending September 30, 2009. Mr. Queenan noted that all fees, excluding fees owed by Goetz Custom Technologies, LLC, are current. There was no further discussion.

### OTHER BUSINESS

Mr. Queenan requested that he present one additional item for the Board's consideration and approval. Mr. Queenan distributed to the Board copies of RIIFC's Public Notice with respect to the regular meeting schedule of RIIFC for the 2010 calendar year. There being no discussion, Mr. Piacitelli called for a motion to approve the proposed regular meeting schedule for the 2010 calendar year. Upon motion duly made by Mr. Parsons and seconded by Mr. Kehew, the proposed regular meeting schedule was approved and accepted as follows: Mr. Piacitelli – yes, Mr. Parsons – yes and Mr. Kehew – yes.

### ADJOURNMENT

There being no other business to come before the Board, Mr. Parsons made a motion, which motion was duly seconded by Mr. Kehew to adjourn the meeting at approximately 9:10 a.m., which motion was adopted as follows: Mr. Piacitelli – yes, Mr. Parsons – yes and Mr. Kehew – yes.

## **EXHIBIT A**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF THE RHODE ISLAND INDUSTRIAL FACILITIES CORPORATION WITH RESPECT TO \$5,000,000 INDUSTRIAL DEVELOPMENT REVENUE BONDS (NFA CORP. PROJECT - 1994 SERIES)**

WHEREAS, the Rhode Island Industrial Facilities Corporation (the "Corporation") issued its Industrial Development Revenue Bonds (NFA Corp. Project - 1994 Series) in the original amount of Five Million and 00/100 Dollars (\$5,000,000.00) on September 2, 1994 (the "Bonds");

WHEREAS, Bank of America, N. A., successor in interest to the First National Bank of Boston (the "Letter of Credit Bank" or "Bank of America") issued its Letter of Credit in support of the Bonds;

WHEREAS, the Bank of New York, N.A., successor in interest to Citizens Trust Company as Trustee (the "Trustee") is Trustee under that Trust Indenture between the Corporation and the Trustee dated as of August 1, 1994 (the "Indenture") pursuant to which the Bonds were issued;

WHEREAS, NFA Corp. (the "Borrower") executed a Real Estate Lease Agreement between Borrower and the Corporation (the "Real Estate Agreement") and an Equipment Lease Agreement (the "Equipment Agreement") both dated as of August 1, 1994 by and between Borrower and the Corporation and other security and pledge agreements in connection therewith to secure repayment of the Bonds;

WHEREAS, Bank of America now desires to extend additional credit to the Borrower (the "New Loans");

WHEREAS, Bank of America intends to obtain a Leasehold Mortgage and a blanket security interest in certain personal and real property which is also the subject of and serves as collateral for the Bonds;

WHEREAS, the parties desire to enter into an Intercreditor Agreement in order to make clear that to the extent any of the New Loans are secured by real or personal property of the Borrower which also secures the Bonds, among other things, the security for the Bonds granted pursuant to the Indenture, the Real Estate Agreement and the Equipment Agreement and instruments and documents executed in connection therewith will maintain a first priority interest in said property.

NOW THEREFORE, does the Corporation vote as follows:

VOTED: That the Rhode Island Industrial Facilities Corporation (the "Corporation") be and hereby is authorized and empowered to enter into an Intercreditor

Agreement with the Bank of America, N.A. incident to the extension of certain additional credit to be extended to NFA Corp. by Bank of America substantially in the form presented to the Corporation this day; and provided further that it is

VOTED: That the Treasurer or Executive Director of the Corporation, acting singly, and the Secretary or Assistant Secretary of the Rhode Island Industrial Facilities Corporation, acting singly, be, and each hereby is authorized and empowered to sign the aforesaid Intercreditor Agreement with Bank of America and to execute such other papers, documents or instruments deemed necessary or desirable to carry out the intents and purposes of this Resolution.

SECRETARY'S CERTIFICATE

I, Sean Esten, Secretary of the Rhode Island Industrial Facilities Corporation, hereby certify that attached hereto is a true and accurate copy of Minutes of the Meeting of the Board of Directors of the Rhode Island Industrial Facilities Corporation held on October 29, 2009. These Minutes were approved by the Board of Directors at the meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Sean Esten, Secretary

*G:\DATA\WPDATA\RIIFC\Administrative 2009\October 2009\RIIFC Minutes (10.29.09).doc*